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Chief Legal Officer

October 30, 2018

VIA ELECTRONIC FILING

David Butler, Esquire
 Hearing Officer
 Public Service Commission of South Carolina
 101 Executive Center Drive, Suite 100
 Columbia, South Carolina 29210

Randy Randall
 Chairman
 Public Service Commission of S.C.
 101 Executive Center Drive, Ste 100
 Columbia, South Carolina 29210

Re: **Consolidated Docket Nos.: 2017-207-E; 2017-305-E; and 2017-370-E**
 Use of Depositions as Pre-filed Testimony

Dear Chairman Randall and Mr. Butler:

The South Carolina Office of Regulatory Staff ("ORS") makes the following request in light of the decision in Order No. 2018-155-H.

ORS requests that it be permitted to present Ken Browne and Carlette Walker as pre-filed testimony witnesses, who are expected to be present at the hearing pursuant to subpoena, as part of ORS's presentation of its case. These witnesses would adopt their depositions as their pre-filed testimony. ORS is *not* proposing that someone would read their transcript into the record or simply show video deposition as may be the case with the non-pre-filed witness testimony that may be allowed to be submitted after all pre-filed testimony is presented. The witnesses would be led through a short summary of their deposition testimony and then be subject to cross examination.

ORS submits that these two witnesses are former SCE&G employees who were in high positions of involvement and authority with important, first-hand knowledge of the facts and circumstances of the 2014 Estimate at Completion ("EAC") provided by the Consortium, the SCE&G internal EAC Review Team that analyzed the Consortium's 2014 EAC, the 2015 Petition for Modification, and SCE&G's decision to ignore and not disclose its internal review reached different conclusions and the instructions to witnesses by attorneys to change their testimony in order to adopt the Consortium's forecast despite the internal review and report to the contrary. It

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is some of the critical testimony and exhibits showing that SCE&G knew, or at least should have known, at the time it filed the March 12, 2015 Petition for Modification that the substantial completion dates and forecasted costs exceeded the Consortium's numbers that SCE&G then chose to use in its 2015 Petition.

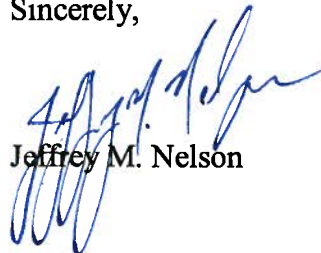
As further support for allowing the depositions to serve as pre-filed testimony where the witnesses are present at the hearing, S.C. Code Section 58-3-140(D) simply requires testimony to be reduced to writing in advance of any hearing. No statute, regulation, or Commission practice requires pre-filed testimony to be in question and answer format. Commission regulations state that direct testimony can be statements of fact or expressions of opinion. S.C. Regs. 103-842(C) (2012).

By prefiling the depositions, ORS has provided SCE&G with the witnesses' written statements in advance of the hearing in compliance with statute and the Commission's regulation. These witnesses were just not available for traditional, unsworn pre-filed testimony, but we submit their sworn deposition testimony is reliable and should be accepted.

It would be very helpful to know if ORS is permitted to present these witnesses as part of ORS's pre-filed testimony presentation.

Thank you for considering our request.

Sincerely,



Jeffrey M. Nelson

cc: All Parties of Record in 2017-207-E (via Email)
All Parties of Record in 2017-305-E (via Email)
All Parties of Record in 2017-370-E (via Email)
Joseph Melchers, Esquire (via Email)